

E-FILED 09-14-2010

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LAILA BATTS,

No. C08-00286 JW (HRL)

Plaintiff,

**ORDER DENYING PLAINTIFF'S
MOTION FOR MODIFICATION AND
ENFORCEMENT OF NONPARTY
SUBPOENAS**

v.

COUNTY OF SANTA CLARA, PETER
CRANDALL, CHRISTINA ARQUERO, and
DOES 3-20,

[Re: Docket No. 185]

Defendants.

Plaintiff Laila Batts claims that during her 10-day incarceration at the Elmwood Women's Facility ("Elmwood") from January 5-14, 2007, defendants failed to diagnose and provide appropriate medical care for her ectopic pregnancy. She seeks damages for alleged violation of her civil rights (42 U.S.C. § 1983) and professional negligence.

Batts served subpoenas seeking defendant Dr. Crandall's prior employment records. She also seeks records from several malpractice lawsuits reportedly filed against him several years ago, the most recent of which apparently was filed in 2002. She now moves to enforce the subpoenas. The subpoenaed nonparties — the Hinshaw, Draa, et al. law firm, Good Samaritan Medical Group (aka San Jose Medical Group), and NORCAL Mutual Insurance Company — oppose the motion. Defendants join in the nonparties' opposition. The matter was deemed appropriate for determination without oral argument. See Civ. L.R. 7-1(b).

1 Upon consideration of the moving and responding papers, this court denies the motion.
2 Defendants and nonparties correctly note that the instant motion was not timely filed. See Civ.
3 L.R. 26-2. Although this court excused plaintiff's tardiness (Docket No. 232), it appears that
4 plaintiff has made other procedural missteps in connection with the instant motion. Most
5 notable of these is her failure to meet-and-confer with the very entities whose documents are
6 being sought. Batts' attempt to meet-and-confer with County counsel about these nonparty
7 records is no substitute. And, this court rejects plaintiff's contention that she is not obliged to
8 confer with nonparties prior to filing a motion seeking to compel the production of their
9 records. In any event, Batts has failed to convince that the records sought are relevant or
10 reasonably calculated to lead to the discovery of admissible evidence.¹

11 SO ORDERED.

12 Dated: September 14, 2010

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15 HOWARD R. LLORENTE
16 UNITED STATES MAGISTRATE JUDGE
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27 ¹ Although Batts contends that, by virtue of filing malpractice actions, the
28 nonparty patients have waived their privacy rights, this court finds it unnecessary to rule on
that issue. Nevertheless, the court notes that Batts has taken a somewhat different view with
respect to defendants' efforts to compel documents pertaining to her that she claims is
confidential. (See Docket No. 111).

1 5:08-cv-00286-JW Notice has been electronically mailed to:

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9 Counsel are responsible for distributing copies of this document to co-counsel who have not
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